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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,452	02/20/2004	Fred Lawrence Heldoom	41660-P001US	7783
34725	7590	08/17/2007		
CHALKER FLORES, LLP 2711 LBJ FRWY Suite 1036 DALLAS, TX 75234			EXAMINER NGUYEN, PHU HOANG	
			ART UNIT 1731	PAPER NUMBER
			MAIL DATE 08/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/783,452	Applicant(s) HELDOORN, FRED LAWRENCE	
	Examiner Phu H. Nguyen	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/7/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The finality of the rejection of the last Office action (6/5/2007) is withdrawn since the rejection of claim 15 (filed on 4/2/2007) was not explicitly addressed.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 12 contain the phrase "takeout holder comprises a high temperature plastic that provides a longer life expectancy and is stable at temperature above 260 degree C" that was not described in the specification as filed. If the applicant believes the description was provided in the specification, the applicant is requested to point out the column and line number in the specification that contains the description.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 11-12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) in view of Denney et al. (U.S Patent No. Re 34953).

Regarding claims 1 and 11, Dorey discloses a takeout holder (1, fig. 1) formed of thermosetting resin (corresponding to the claimed "plastic" recites in the instant claim 1) comprises:

a semi-circular base having a front edge and rear edge (reference sign 3, fig. 1);

a pocket (3, fig. 1) within the semi-circular base formed by a bottom wall, a side wall and a top wall that extends between the front edge and the rear edge; and

a fitting (4, fig. 1) (corresponding to the claimed "yoke" recites in the instant claim 1) that extends generally perpendicularly from the semi-circular base, where in the takeout holder comprises a plastic.

However, Dorey does not expressly disclose the pocket is tapered with the front edge wider than the rear edge. Denney discloses a takeout holder with pocket that is tapered with the front edge wider than the rear edge as that fits the insert (26, fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the modification as taught by Denney to have a better fit of the insert and the pocket.

Regarding claim 2, Dorey also discloses the jaw member (corresponding to the claimed "semi-circular nonmetallic insert" recites in the instant claim 2) comprises a bottom wall and a top wall that extends between a front insert edge and a rear insert edge (5, fig. 1).

Regarding claim 12, in addition to the limitations discussed above for claim 1, Dorey also discloses the tong may also be formed as a unitary structure (corresponding to the claimed "molded" recites in the instant claim 12) from the thermoset composite (page 2, line 46-47). Furthermore, Denney discloses the maintenance of precise alignment of the takeout jaws and bottles to reduce damage to bottles and increase the life of the insert; the insert is held immovably within the pocket of the takeout holder (line 56-68, column 3 and fig. 2).

Regarding claim 14, Denney further discloses the takeout jaw further comprising a semi-circular nonmetallic insert (column 5, line 19- 25 and 26, fig. 2) comprising a bottom wall and a top wall that extends between a front insert edge and a rear insert edge.

Regarding claim 16, Denney also discloses alignment means for aligning the takeout jaw with a symmetrical takeout jaw as shown in Fig. 1 of Denney et al. (U.S Patent No. Re. 34953).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) and Denney (U.S Patent No. Re. 34953) as applied to claim 2 above, and further in view of Lloyd et al. (U.S Patent No. 5741343). The combination of Dorey and Denney discloses that material such as ceramic can be used to make the insert since it has a low thermal conductivity and a low thermal capacity; however brittle ceramic is not preferred since chipped ceramic jaw member eventually renders the take out incapable of performing its function of picking up bottles. Lloyd et al. (U.S Patent No. 5741343) discloses a solution for the brittleness of graphite by providing pads

composed of a relatively high strength ceramic and having tongue-in-groove and/or roughened glass-contact surfaces (line 46-49, column 2). Therefore, it would have been obvious to one of ordinary skill in the art to use available high strength ceramic as taught by Lloyd to make the insert.

Claims 4, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Denney (U.S Patent No. Re. 34953) and Lloyd et al. (U.S Patent No. 5741343) as applied to claim 3 above, and further in view of Oberlin (U.S Patent No. 3473938).

Regarding claim 4, The combination of Dorey, Denney and Lloyd does not expressly disclose the ceramic composed in part of alumina. Oberlin discloses an alumina containing thin walled refractory structure of high strength and thermal shock resistance (column 1, line 53-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include alumina to take the advantage of high strength and thermal shock resistance as taught by Oberlin.

Regarding claims 7-9, Dorey discloses means for holding the insert in engagement with the takeout jaw comprises oval pins (8, fig. 1), through holes (9, fig. 1) and blind holes (10, fig.1). In an alternative means for holding, Denney also discloses means for holding the insert in engagement with the takeout jaw; means for holding comprising a spring clip (58, fig. 3) (corresponding to the claimed "détente" recites in the instant claim 9) for holding the insert within the pocket of the takeout jaw (line 4-51, column 5). Denney further discloses an opening in the side wall of the pocket to mate

to a corresponding tap on the semi circular insert (as shown on fig. 2 from reference sign 50 to reference sign 40).

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Denney (U.S Patent No. Re. 34953) and Lloyd et al. (U.S Patent No. 5741343) as applied to claim 3 above, and further in view of Nishikawa et al. (U.S Patent No. 4900807).

Regarding claim 5, Nishikawa discloses compositions that made up the material including a releasing agent, alumina and clay that have excellent high temperature strength (line 8-36, column 10) which provide another choice of material that is has excellent high temperature strength for one of ordinary skill in the art to construct the insert.

Regarding claim 6, Dorey discloses the semi-circular nonmetallic insert is fitted (as shown by projected dotted lines) into a recess (fig. 1).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Lloyd et al. (U.S Patent No. 5741343) and Denney et al. (U.S Patent No. Re. 34953) as applied to claim 7 above, further in view of Recker et al. (U.S Patent No. 6523768). The combination of Dorey, Lloyd and Denney does not disclose wedging effect between the insert and the holder. Recker discloses the wedge-lock tool insert system that each insert cannot be removed from its pocket without first releasing the wedge lock of its holder (line 26-53, column 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take

advantage of the wedging effect to lock the insert into the slot defined by the takeout jaw.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) as applied to claim 12 above in view of Mohler et al. (U.S Patent No. 6805832). Dorey discloses synthetic polymers such as coal tar pitch or polyacrylonitrile can be use as the plastic material for the take out jaw (page 2, line 2-4). Mohler discloses a thermite torch cutting nozzle that is fabricated from a material selected from the group consisting of mineral/phenolic and high temperature plastic. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to select the high temperature plastic alternatively as taught by Mohler.

Claim 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (U.S Patent No. Re. 34953) in view of Kume et al. (JP 04160065 A). Denney discloses an insert for a non-metallic take out holder (26, fig. 2) comprises:

a bottom wall, a top wall and one or more side walls tapers from a rear edge to a front edge, wherein the insert is wider at the front edge than at the rear edge;

the front edge comprising a profile that corresponds to at least a portion of a bottle;

a lug (44, fig. 2) engages with spring clip (58, fig. 2) to secure removably the insert to the takeout holder (corresponding to the claimed "an extension positioned about the insert to engage an indentation in a take out holder to secure removably the insert to the takeout holder).

Denney does not expressly disclose that the insert is made of ceramic that includes alumina and a releasing agent. Kume discloses a ceramic insert wherein the ceramic includes alumina and a releasing agent for superior surface smoothness without causing sticking (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art to choose a ceramic includes alumina and a releasing agent as a non-metallic material to make the insert to ensure superior surface smoothness without causing sticking.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (U.S Patent No. Re. 34953) in view of Kume et al. (JP 04160065 A) as applied to claim 17 above, in view of Filges et al. (U.S Patent 6517597). The combination of Denney and Kume discloses a ceramic insert but did not disclose the ceramic is glazed. Filges discloses the surface of the ceramic composition has a coating with a very low porosity, in particular a glaze, a glazing for its protection (line 51-54, column 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to protect the ceramic with a glaze.

Response to Arguments

Applicant's arguments with respect to claims 1-14 and 16-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu H. Nguyen whose telephone number is 571-272-5931. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.N 8/13/2007



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